

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LARRY HICKMAN)	
)	
Petitioner,)	
)	Civil Action No. 11-791
v.)	Judge Schwab
)	
KENNETH CAMERON)	
)	
Respondent.)	

MEMORANDUM ORDER

Larry Hickman (“Petitioner”) is a state prisoner who currently is incarcerated at the State Correctional Institution at Cresson, Pennsylvania (“SCI-Cresson”). Before this Court is Petitioner’s petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254, in which Petitioner attacks his 1988 criminal convictions in the Court of Common Pleas of Allegheny County, Pennsylvania. Pet. for Writ of Habeas Corpus (Doc. 1 at 1). A search of this Court’s filing system reveals that this is at least Petitioner’s seventh such petition filed with this Court. See, e.g., Hickman v. Coleman, No. 10-148, 2010 WL 2634104 (W.D. Pa. Apr. 22, 2010) (recounting a partial history of Petitioner’s filings attacking his state convictions in federal court).¹

This matter was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the

¹ Indeed, it would not be an exaggeration to state that Petitioner has inundated this Court with a multitude of meritless habeas petitions. Accordingly, Petitioner is cautioned that, by presenting this Court with petitions that he knows to be frivolous, he exposes himself to the possibility of sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure, which apply to *pro se* litigants as well as to attorneys. Rader v. ING Bank, Nos. 09-340, 09-544, 09-781, 2010 WL 1403962, at *6 (D. Del. Apr. 07, 2010) (citing Thomas v. Connecticut Gen. Life Ins. Co., No. 02-MC-136, 2003 WL 22953189, at *3 (D. Del. Dec 12, 2003)).

Local Rules for Magistrate Judges. The magistrate judge issued a report and recommendation on October 17, 2011, recommending that this case be dismissed as a second or successive petition, for which Petitioner had not received the permission from the court of appeals to proceed. (Doc. 5 at 3). To the extent that Petitioner characterized his petition as a motion under Rule 60(b) of the Federal Rules of Civil procedure for relief from his 1988 state court convictions, see (Doc. 1 at 1), it was recommended that the motion be denied. (Doc. 5 at 3). Finally, the magistrate judge recommended that a certificate of appealability be denied. Id.

On October 25, 2011, Petitioner responded with objections, and for the first time characterized his petition as a motion pursuant to Rule 60(b)(4) attacking the denial of habeas relief by this Court in 1996. See (Doc. 7 at 2); see also Hickman v. Brennan, No. 96-562, (W.D. Pa. Nov. 14, 1996) (Doc. 12). The docket in that case indicates that the court of appeals denied Petitioner a certificate of appealability in 1997. Brennan, No. 96-562 (Doc. 14). To the extent that any new claim for relief which is raised for the first time in objections is properly before this Court, Petitioner's new, if not novel, collateral attack of his prior habeas proceeding pursuant to Rule 60(b) – almost 15 years after the entry of judgment against him – will be denied as grossly untimely. See Burgos v. Superior Court of PA, 355 F. App'x 585, 586-87 (holding that a motion brought pursuant to Rule 60(b)(4) attacking the seven-year-old judgment of a district court denying habeas relief was not brought within a reasonable period of time).

After *de novo* review of the pleadings and documents in the case, together with the report and recommendation (Doc. 5), and Petitioner's objections thereto (Doc. 7), the following ORDER is entered:

AND NOW, this 31st day of October, 2011,

IT IS HEREBY ORDERED that Petitioner's petition for writ of habeas corpus (Doc. 1) is
DISMISSED.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

IT IS FURTHER ORDERED that the magistrate judge's report and recommendation
(Doc. 5) is adopted as the opinion of this Court.

IT IS FURTHER ORDERED that Petitioner's motion for bail (Doc. 6) is DENIED as
MOOT.

BY THE COURT:

s/Arthur J. Schwab
ARTHUR J. SCHWAB
UNITED STATES DISTRICT JUDGE

cc:
LARRY HICKMAN
AJ2188
PO Box A
Cresson, PA 16699